

MHG-05

RECEIVED

OCT 22 2003

OFFICE OF PETITIONS

RECEIVED
OCT 28 2003
TC 1700

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Greenwood et al.)
Serial No.: 09/834,101) Group Art Unit: 1744
Filed: April 12, 2001) Examiner: Chin, Randall E.
For: Detachably Interconnected)
Handle and Paint Brush)

**DECLARATION IN SUPPORT OF PETITION
TO MAKE SPECIAL UNDER 37 CFR 1.102(d)**

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Mark H. Greenwood, do solemnly and sincerely declare as follows:

1. I am a co-inventor of the invention disclosed and claimed in the above captioned patent application.
2. Previously, I have invented, patented, manufactured and sold successfully various items. For example, I created and made child safety products and other goods for infants and children which I sold through a company I founded called Children on the Go that I sold about four years ago to Graco/Newell Rubbermaid.
3. Under a contractual arrangement with the assignee of the present application, Sapphire Designs, in April, 2003, I established a new company, Maverick Products, and, working through this company, I have had paint brush products including handles and associatable brush cartridges such as disclosed and claimed in this patent application manufactured and packaged, and I have begun marketing these products. I have made a substantial capital investment in and related to these products and to their manufacture and sale.

4. As a matter of relevant interest, I note that an unsolicited newspaper article about Maverick Products and the paint brush with detachable brush cartridges recently appeared in a local Chicago area newspaper, the Daily Herald, on October 3, 2003. A copy of this article is attached as Exhibit A. The information contained in this article is substantially correct.

5. In undertaking commercialization (including manufacture, marketing and sale) of embodiments of products disclosed and claimed in the present application and in the copending application filed on even date with the present application identified by U.S. Serial No. 09/833,361 (attorney's docket no. MHG-04), it has become evident that the amount of capital investment and risk already involved and further required makes it essential that patent protection must be obtained on these products to justify further investment and risk, such as will be necessary for continued and further commercialization.

6. Further investment and risk assumption cannot be reasonably undertaken unless suitable and adequate claim coverage is granted by the U.S. Patent and Trademark Office (USPTO) on subject matter disclosed and claimed in each of these applications. The claims granted must be such as to provide meaningful, suitable and adequate patent protection. The protection must be sufficient to protect the investment of capital, in the opinion of my patent counsel and in my own opinion, on paint brush structures having a handle portion and paint applicator portions that individually reversibly associate with the handle portion.

7. If the claims granted on subject matter in these applications do not provide such patent protection, then I cannot make the further capital investment and assume the further risks associated with such commercialization. The competition would soon have competing structures

that might not be covered by the granted patent claims so that the desired commercialization would not be protected. Without patent protection deemed sufficient, the product(s) would be copied by third parties, and the commercialization efforts would not be successful.

8. The exact choice of which paint brush product(s) that will continue to be commercialized, or that will be commercialized in the future, will be heavily influenced by what claims are allowed by the USPTO in these applications.

9. Even though a final selection of product(s) which will be made and marketed through Maverick Products in the future cannot yet be made (since Office Actions on the merits of these applications have not been received), a substantial amount of planning, market analysis, test marketing and some market development work has already been undertaken. The present marketing efforts, although significant from my standpoint, are still on a relatively small scale.

10. I note that an Office Action (including a species election requirement) dated September 25, 2003 has been rendered in this application. I have studied this Office Action. The Examiner alleges that ten (10) species are allegedly presented in this application without a generic claim and requires (a) an election of a single species for further prosecution and (b) an election of a single sub-species based on the first election. The Examiner's position in my opinion is incorrect and is not acceptable particularly in view of the above-indicated commercialization efforts. My position and that of the assignee of the present application, Sapphire Designs, is explained in the accompanying "Petition to the Director under 37 CFR §1.181 Requesting Withdrawal of, or Relief from, Examiner's Species Election Requirement." If a restriction (division) requirement is considered by the U.S. Patent and Trademark Office to be

Declaration in Support of Petition to Make Special

necessary in this application, then the suggested Group I claims appearing in this Petition is acceptable to Sapphire Products and to me and so are (hypothetically) now elected.

11. I further note that this Petition is accompanied by a "Petition to Make Special under 37 CFR §1.102(d)" which I and Sapphire Designs consider to be necessary at this time. Prompt resolution of patent prosecution issues and identification of claims being allowed is needed to justify continuation of the above-indicated efforts to commercialize the invention disclosed and claimed in these two patent applications.

12. I wish to emphasize that I, as the prospective manufacturer of products disclosed and claimed in these two patent applications, may not continue manufacturing and marketing efforts regarding such products unless adequate and sufficient patent claim coverage is granted promptly, but that I will continue and expand such efforts if such patent claim coverage is promptly obtained.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statement and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or document or any registration resulting therefrom.

10/14/03
Date


Mark H. Greenwood